

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-0925-AIR-E TCEQ ID: RN102705191 CASE NO.: 33786
RESPONDENT NAME: K.A.T. Excavation & Construction Inc.

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: KAT Excavation & Construction, 18788 Highway 105, Sour Lake, Hardin County</p> <p>TYPE OF OPERATION: Bulk mineral handling operation</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on April 11, 2007 with allegations of nuisance dust emissions. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on September 24, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, R-04, (817) 588-5890; Mr. David Van Soest, Enforcement Division, MC 219, (512) 239-0468 Respondent: Mr. Kerry Trest, President, K.A.T. Excavation & Construction Inc., P.O. Box 383, Sour Lake, Texas 77659 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: April 11, 2007</p> <p>Date of Investigation Relating to this Case: April 11, 2007</p> <p>Date of NOE Relating to this Case: June 8, 2007 (NOE)</p> <p>Background Facts: This was a complaint investigation. One violation was documented.</p> <p>AIR</p> <p>Failure to prevent a nuisance condition, to prevent emissions from impacting off-site properties, and to prevent a traffic hazard along State Highway 105 resulting from dust emissions created by vehicle traffic at the Plant, as documented during the April 11, 2007 investigation [30 TEX. ADMIN. CODE §§ 101.4 and 101.5 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b)].</p>	<p>Total Assessed: \$2,175</p> <p>Total Deferred: \$435 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$1,740</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent installed approximately 350 feet of new asphalt and concrete at the exit of the Plant on June 1, 2007 to eliminate future nuisance and/or traffic hazard conditions.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision December 8, 2006

TCEQ

DATES	Assigned	11-Jun-2007	Screening	12-Jun-2007	EPA Due	
	PCW	13-Jun-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	K.A.T. Excavation & Construction Inc.		
Reg. Ent. Ref. No.	RN102705191		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	33786	No. of Violations	1
Docket No.	2007-0925-AIR-E	Order Type	1660
Media Program(s)	Air Quality	Enf. Coordinator	Jorge Ibarra, P.E.
Multi-Media		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$2,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 12% Enhancement **Subtotals 2, 3, & 7** \$300

Notes

The Respondent was issued two NOV's with the same or similar type of violations and one NOV without the same or similar type of violations.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

25%

Reduction

Subtotal 5 \$625

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent achieved full compliance on June 1, 2007.

Total EB Amounts \$70
Approx. Cost of Compliance \$10,000

0% Enhancement*

*Capped at the Total EB \$ Amount

Subtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$2,175

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment \$0

Notes

Final Penalty Amount \$2,175

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$2,175

DEFERRAL

20%

Reduction

Adjustment -\$435

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$1,740

Screening Date 12-Jun-2007

Docket No. 2007-0925-AIR-E

PCW

Respondent K.A.T. Excavation & Construction Inc.

Policy Revision 2 (September 2002)

Case ID No. 33786

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102705191

Media [Statute] Air Quality

Enf. Coordinator Jorge Ibarra, P.E.

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 12%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent was issued two NOVs with the same or similar type of violations and one NOV without the same or similar type of violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 12%

Screening Date 12-Jun-2007

Docket No. 2007-0925-AIR-E

PCW

Respondent K.A.T. Excavation & Construction Inc.

Policy Revision 2 (September 2002)

Case ID No. 33786

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102705191

Media [Statute] Air Quality

Enf. Coordinator Jorge Ibarra, P.E.

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 101.4 and 101.5 and Tex. Health & Safety Code § 382.085(a) and (b)

Violation Description

Failed to prevent a nuisance condition, to prevent emissions from impacting off-site properties, and to prevent a traffic hazard along State Highway 105 resulting from dust emissions created by vehicle traffic at the Plant, as documented during the April 11, 2007 investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		x	
Potential			

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to control dust emissions resulted in the creation of hazardous conditions along State Highway 105 as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1

1 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$70

Violation Final Penalty Total \$2,175

This violation Final Assessed Penalty (adjusted for limits) \$2,175

Economic Benefit Worksheet

Respondent K.A.T. Excavation & Construction Inc.
Case ID No. 33786
Reg. Ent. Reference No. RN102705191
Media Air Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$10,000	11-Apr-2007	1-Jun-2007	0.1	\$70	n/a	\$70

Notes for DELAYED costs

Estimated cost to install the new asphalt and concrete at the exit of the Plant. Date Required is the investigation date, Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$70

Compliance History

Customer/Respondent/Owner-Operator: CN602838344 K.A.T. Excavation & Construction Inc. Classification: AVERAGE BY DEFAULT Rating: 3.01

Regulated Entity: RN102705191 KAT EXCAVATION & CONSTRUCTION Classification: AVERAGE BY DEFAULT Site Rating: 3.01

ID Number(s):

AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	951031D
AIR NEW SOURCE PERMITS	PERMIT	51966L002
AIR NEW SOURCE PERMITS	PERMIT	51966L003
AIR NEW SOURCE PERMITS	PERMIT	51966L009
AIR NEW SOURCE PERMITS	REGISTRATION	51966L005
AIR NEW SOURCE PERMITS	PERMIT	51966L004
AIR NEW SOURCE PERMITS	PERMIT	51031
AIR NEW SOURCE PERMITS	PERMIT	51031A
AIR NEW SOURCE PERMITS	REGISTRATION	51966L007
AIR NEW SOURCE PERMITS	REGISTRATION	51966L008

Location: 18788 HIGHWAY 105, SOUR LAKE, TX, 77659 Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: June 14, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 14, 2002 to June 14, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance Yes
2. Has there been a (known) change in ownership of the site during the compliance Yes
3. If Yes, who is the current owner? K.A.T. Excavation & Construction, Inc.
4. if Yes, who was/were the prior owner(s)? Cecil M. Hopper Contractor, Inc.
5. When did the change(s) in ownership occur? 5/18/2005

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1. 09/18/2006 (510374)
2. 02/07/2007 (533889)
3. 04/04/2007 (543249)
4. 05/04/2007 (559601)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 09/18/2006 (510374)

Self Report? NO

Classificatio Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.4
30 TAC Chapter 101, SubChapter A 101.5
5C THC Chapter 382, SubChapter D 382.085(b)

Description: Failure to prevent a nuisance condition at a nearby resident and traffic hazard along a highway.

Date: 02/07/2007 (533889)

Self Report? NO

Classificatio Moderate

Citation: 30 TAC Chapter 101, SubChapter A.101.4
5C THC Chapter 382, SubChapter D 382.085(b)
Description: Failure to prevent a nuisance condition.
Date: 04/04/2007 (543249)
Self Report? NO Classification Moderate
Citation: TWC Chapter 26 26.121(d)
Description: Failure by Kat Excavation to prevent the unauthorized discharge of industrial waste water into or adjacent to waters of the state.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
K.A.T. EXCAVATION &
CONSTRUCTION INC.
RN102705191**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY
§**

AGREED ORDER DOCKET NO. 2007-0925-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding K.A.T. Excavation & Construction Inc. ("K.A.T. Excavation") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and K.A.T. Excavation appear before the Commission and together stipulate that:

1. K.A.T. Excavation owns and operates a bulk mineral handling operation at 18788 Highway 105 in Sour Lake, Hardin County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and K.A.T. Excavation agree that the Commission has jurisdiction to enter this Agreed Order, and that K.A.T. Excavation is subject to the Commission's jurisdiction.
4. K.A.T. Excavation received notice of the violations alleged in Section II ("Allegations") on or about June 13, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by K.A.T. Excavation of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Two Thousand One Hundred Seventy-Five Dollars (\$2,175) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). K.A.T. Excavation has paid One Thousand Seven Hundred Forty Dollars (\$1,740) of the administrative penalty and Four Hundred Thirty-Five Dollars (\$435) is deferred contingent upon K.A.T. Excavation's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If K.A.T. Excavation fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require K.A.T. Excavation to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and K.A.T. Excavation have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that K.A.T. Excavation installed approximately 350 feet of new asphalt and concrete at the exit of the Plant on June 1, 2007 to eliminate future nuisance and/or traffic hazard conditions.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that K.A.T. Excavation has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, K.A.T. Excavation is alleged to have failed to prevent a nuisance condition, to prevent emissions from impacting off-site properties, and to prevent a traffic hazard along State Highway 105 resulting from dust emissions created by vehicle traffic at the Plant, in violation of 30 TEX. ADMIN. CODE §§ 101.4 and 101.5 and TEX. HEALTH & SAFETY CODE § 382.085(a) and (b), as documented during an investigation conducted on April 11, 2007.

III. DENIALS

K.A.T. Excavation generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that K.A.T. Excavation pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and K.A.T. Excavation's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: K.A.T. Excavation & Construction Inc., Docket No. 2007-0925-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon K.A.T. Excavation. K.A.T. Excavation is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against K.A.T. Excavation in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to K.A.T. Excavation, or three days after the date on which the Commission mails notice of the Order to K.A.T. Excavation, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Received:
Sep 10 07 07:06a KAT Excavation & ConstrucSep 10 2007 07:56am
409-287-2600

p.2

From: TCEQ DFW REGION

817 588 5905

09/06/2007 16:07

#186 P.005/005

K.A.T. Excavation & Construction Inc.
DOCKET NO. 2007-0925-AIR-E
Page 4

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director10/3/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature09/07/07
DateKerry Trest
Name (Printed or typed)
Authorized Representative of
K.A.T. Excavation & Construction Inc.President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

